

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

CLEANUP AND ABATEMENT ORDER NO. 98-101

AGAINST

WILLIAM CARR, HARRIETT CARR, HOWARD CARR, ELIZABETH CARR
CARR & CARR, INC.

ESTATE OF ARCHIE JACOBS

WILLIAM WRIGHT

Indio, Riverside County

The Executive Officer of the California Regional Water Quality Control Board, Colorado River Basin Region, finds that:

1. The parties listed below (hereinafter referred to as the dischargers) have discharge diesel and gasoline fuel to the waters of the State of California at the service station located at 81-929 Indio Boulevard, Indio, CA 92201 (hereinafter referred to as the site).
 - a. George E. Mann inherited the property from Alice Mann. Mr. George Mann is the current owner of the site (property located at 81-929 Indio Boulevard, Indio, CA).
 - b. On June 12, 1954, William Carr, Harriett Carr, Howard Carr, Elizabeth Carr, and Carr & Carr, Inc., leased the site from owner Alice Mann for a term of ninety-nine years. Subsequently, the Carrs transferred all interest in the land lease to Carr & Car, Inc. On October 1, 1967, Carr & Carr, Inc. sold its interest in the land lease of 1954 to Archie Jacobs.
 - c. On October 1, 1978, Archie Jacobs began a ten-year lease on the site. Mr. Jacobs sublet the site to William Wright for a fifteen-year term beginning on April 1, 1983. Mr. Jacobs sublet the site with the knowledge that the property would be operated as a service station and his estate is assuming responsibilities for the property.
 - d. On April 1, 1983, William Wright leased the site. Mr. Wright operated the service station at the site prior to, and at the time, the diesel fuel leak was detected on February 20, 1986.
2. On February 20, 1986, Regional Board staff witnessed an 8,000-gallon diesel tank being excavated at the site. The excavation revealed a diesel fuel leak from the turbine pump. Staff observed soil stains which indicated the presence of pollution.
3. On February 21, 1986, the Indio City Fire Department filed an Unauthorized Release Report for the site. This Report indicates that diesel fuel had leaked from the turbine pump seals associated with the 8,000-gallon diesel tank.
4. On December 20, 1989, the Indio City Fire Department responded to a diesel fuel spill at the site. The Department reported that the spill appeared to be in excess of 50 gallons.
5. By letter dated July 18, 1989, the Indio City Fire Department issued a request to Mr. Wright (discharger) to conduct a complete subsurface investigation pursuant to Section 13267 of the California Water code.
6. By Letter dated October 18, 1989, to Mr. Anthony Ditty, Esq., Counsel for Mr. Wright, the Indio City Fire Department again requested a complete subsurface investigation be conducted.
7. By letter dated May 16, 1990, the Indio City Fire Department requested Mr. Wright conduct a complete subsurface investigation of the site within sixty (60) days from the date of said letter.

8. By letter dated November 17, 1990, the Indio City Fire Department requested the staff of the Water Quality Control Board to review this case and assist in requesting further site investigation.
9. By letter dated November 17, 1990, the Indio City Fire Department requested Mr. Archie Jacobs to conduct a subsurface investigation at the site by January 14, 1991.
10. On December 3, 1990, the Regional Board received an Underground Storage Tank Unauthorized Release Report from the Indio City Fire Department. The Report indicated that visual and olfactory signs of soil pollution were observed during an inspection of the installation of leak detection equipment. The Report stated that the Indio City Fire Department's photo-ionization detector verified the presence of 318 parts per million volatile organic compounds at the excavation spoils.
11. By letter dated December 5, 1990, the Indio City Fire Department requested Mr. Wright to conduct a complete subsurface investigation.
12. By letter dated December 5, 1990, Edward Achrem, Esq., Counsel for No. 2 Brothers, Inc., notified the Indio City Fire Department that No. 2 Brothers have been operating the service station located on the site with the written understanding that Mr. Wright would repair any and all underground leaks.
13. On August 12, 1993, Woodward-Clyde Consultants collected soil samples from the site. These samples contained elevated levels of pollutants: Total Petroleum Hydrocarbon as Gasoline, 290 mg/kg; Diesel, 2,900 mg/kg; Benzene, 2.2 mg/kg; Toluene, 1.3 mg/kg; and Xylenes, 8.9 mg/kg.
14. On August 18, 1993, Woodward-Clyde Consultants collected ground water samples from a well located on the east corner of the site. The analytical results of these water samples indicated elevated levels of pollutant in the ground water; Total Petroleum Hydrocarbon 61 mg/L; Benzene, 32 mg/L; Ethylbenzene, 51 mg/L; Xylenes, 6.5 mg/L.
15. A report dated October 1993, entitled "Additional Subsurface Contamination Assessment Report, Former Mobil and USA Service Stations", prepared by Woodward-Clyde Consultants for the San Bernardino Superior Court, concluded the following:
 - a. Petroleum hydrocarbons have been released from the site.
 - b. Contaminants in the soil and ground water associated with the release from the site are predominantly diesel fuel.
 - c. Soil and ground water pollution associated with the release from the site extends onto the former Bob's Big Boy site, and appears to extend to monitoring wells located downgradient and off-site.
16. On June 24, 1994, Riverside County Department of Health Services Hazardous Material Division, filed an Unauthorized Release Report for the site. This Report indicates that diesel fuel had leaked from the pump island dispenser.
17. On July 21, 1994, the Regional Board's Executive Officer issued Cleanup and Abatement Order No. 94-035.
18. On September 2, 1994, a technical report entitled "Workplan for Site Investigation" prepared by Wayne Perry Construction, Inc., consultants for Archie Jacobs was received by this office.
19. By letter dated October 19, 1994, Regional Board staff accepted the technical report dated September 1, 1994, entitled "Workplan for Site Investigation".
20. On November 23, 1994, Regional Board staff received a letter from Archie Jacobs requesting a time extension until February 1, 1995, to implement the approved workplan entitled "Workplan for Site Investigation".

21. By letter dated December 2, 1994, the Regional Board's Executive Officer accepted the request to extend the implementation of the approved workplan entitled "Workplan for Site Investigation" until February 1, 1995.
22. On December 14, 1995, a New Cleanup and Abatement Order No. 95-127 was issued by the Regional Board's Executive Officer.
23. On January 29, 1996, a site investigation workplan for former Wright Express Stop was received and approved on February 29, 1996.
24. On September 13, 1996, Mr. Archie Jacobs, the responsible party, died.
25. On January 15, 1997, the Regional Board staff contacted Mr. Gary Jacobs, the son of Mr. Archie Jacobs, about the status of remediation efforts of the subject site.
26. On April 9, 1997, a report "Fourth Quarter 1996 Status Report", which included the workplan for the site assessment was submitted to the Regional Board.
27. On June 17, 1997, Wayne Perry, Inc. (Environmental Consultant, in behalf of the Responsible parties, submitted a request for extension of the Cleanup and Abatement Order (CAO) No. 95-127.
28. By letter dated July 17, 1997, Mr. Gary Jacobs indicated that he would be receiving all correspondence regarding the site on behalf of his late father's estate.
29. On November 13, 1997, the Regional Board's Executive Officer rescinded CAO 95-127 and adopted CAO 97-100 establishing new timelines for site investigation and cleanup
30. On January 15, 1998, the Regional Board received a report entitled "Transmittal of Quarterly Status Report, Former Wright Express Truck Stop", dated January 12, 1998 in compliance with the requirements of CAO 97-100.
31. On February 3, 1998, the Regional Board received a report "CAO 97-100, Former Wright Express Truck Stop", dated January 29, 1998. The report referenced that a previous workplan was approved by the Regional Board on February 29, 1996.
32. On July 16, 1998, the Regional Board received a report "Quarterly Status Report April through June 1998", dated July 14, 1998, in compliance with requirements of CAO 97-100.
33. As of August 1, 1998, the responsible party had failed to comply with the requirement to implement the cleanup plan to remediate soil and ground water which was supposed to commence on August 1, 1998, pursuant to CAO 97-100.
34. On August 31, 1998, the Regional Board staff contacted Mr. Dave Reilly (consultant with Wayne Perry) by phone to submit the delinquent remediation proposal which was due on June 1, 1998, pursuant to CAO 97-100. He requested, on behalf of the responsible parties, an extension for the submittal of a remediation proposal until October 23, 1998, and an extension for implementation of the cleanup plan until January 15, 1999. He said that the extensions were needed because of the delay in pre-approval costs by the State Cleanup Fund Office.
35. On September 2, 1998, the Regional Board received a report "Request for Modification to CAO 97-100, Former Wright Express Truck Stop, 81929 Indio Boulevard, Indio, CA WPI Project No. 92201"
36. On October 15, 1998, the Regional Board received a report "Transmittal of Remedial Action Plan and Quarterly Status Report.
37. Section 13304 of the California Water Code states, in part, that:

“Any person...who has caused or permitted...any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create a condition of pollution or nuisance, shall upon order of the regional board cleanup such waste or abate the effects thereof, or in the case of threatened pollution or nuisance, take other necessary remedial action.”

38. The dischargers have caused or permitted the discharge of gasoline and/or diesel waste or wastewater into the waters of the State of California and created a condition of pollution.
39. The Water Quality Control Plan for the Colorado River Basin Region of California was adopted on November 17, 1993, and designated the beneficial uses of ground and surface water in this Region.
40. The beneficial uses of the ground water in the Coachella Hydrologic Unit are:
 - a. Municipal supply (MUN)
 - b. Industrial supply (IND)
 - c. Agricultural supply (AGR)
41. Pollution of the ground water by elevated levels of total petroleum hydrocarbons, benzene, toluene, xylene, and ethylbenzene will impair the beneficial uses of the groundwater.
42. Section 25299.37 of the California Health and Safety Code states, in part:

“(a) Each owner, operator, or other responsible party shall take corrective action in response to an unauthorized release.”

“(b) Any corrective action conducted pursuant to this section shall ensure protection of human health, safety, and the environment...”

“(c) The Regional Board may require compliance with California Health and Safety Code Section 25299.37 as part of a cleanup and abatement order issued pursuant to Section 13304 of the Water Code...”
43. Section 13267 of the California Water Code states, in part:

“(a) The regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who is proposing to discharge waste within its region,...or who proposes to discharge waste outside its region that could affect the quality of the waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”
44. This enforcement action is being taken for the protection of the environment and as such is exempt from the California Environment Quality Act pursuant to Section 15321, Chapter 3, Title 14, of the California Code of Regulations.

IT IS HEREBY ORDERED, Cleanup and Abatement Order No. 97-100 is rescinded and that pursuant to Sections 13304 and 13267 of the California Water Code, and Section 25299.37 of the California Health and Safety Code, the dischargers, their agents or assigns, shall prepare technical reports and shall cleanup and abatement the effects of the discharge of gasoline and diesel fuel by complying with the following:

1. Continue quarterly reporting on the progress being made toward site remediation. The quarterly reports shall include the reporting of free product removed in addition to the status of the project. These reports are to be submitted on July 15, October 15, January 15, and April 15, of every year until such time as the Regional Board's Executive Officer deems progress is adequate.

2. By January 15, 1999, implement the cleanup plan to remediate all soil and ground water pollution. Cleanup efforts shall continue until such time that the Regional Board's Executive Officer considers the site to be remediated to the fullest extent possible, based on the then current best available technology.

All technical and monitoring reports required in conjunction with this Order are required pursuant to Section 13267 of the California Water Code and shall include a statement by the discharger or an authorized representative of the discharger certifying under penalty of perjury under laws of the State of California that the report is true, complete and accurate.

Failure to comply with any provisions of this Order may subject you to further enforcement action including, but not limited to, assessment of civil liability pursuant to Sections 13323, 13368 and 13350 of Division 7, Article 25, of the California Water Code, and referral for injunctive relief and civil or criminal liability.

Executive Officer

Date